COURT FEE 10 RS. भारत INDIA दस रुपये TEN RUPEES

FILED

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 895 of 2003

PETITIONER : Nirmala Kaushik Daughter of Puniram Kaushik, aged about 32 years, Secretary Gram Panchayat Karesara, Block Office Sahaspur Lohara, Tahsil and District Kawardha (C.G.)

VERSUS

RESPONDENTS :

1. State of Chhattisgarh Through- The secretary Panchayat and Ruler Development Department, D.K.S. Bhawan, G.E. Road Raipur (C.G.)

2. Sub Divisional Officer, Kawardha (C.G.)

3. Collector, Kawardha (C.G.)

4. Sarpancha, Gram Pachayat, Karesara, Block Office Sahaspur Lohara, Tahsil and District Kawardha (C.G.)

P. R. No. 25/6/03
Presented by Shri Pankaj Agrawal
Dated 10.03.03

PETITION UNDER ARTICLE 227 OF THE CONSTITUTIONOF INDIA.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.895 **सन्** 2003

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	29-4-2005 On a mention being made, the matter is taken up for hearing. Mr. H.B. Agrawal, Senior Advocate with Mr. Pankaj Agrawal, Advocate for the petitioner. Mr. Sanjay Shyam Agrawal, Govt. Advocate for the State/ respondents No.1 to 3. The petitioner has preferred this writ petition under Article 227 of the Constitution of India, whereby the legality and propriety of orders dated 28-11-2001 & 20-1-2003 passed by respondents No.2 & 3 respectively, has been questioned. The case of the petitioner is that the petitioner was appointed as Panchayat Karmi by respondent No.4 vide order dated 11-11-1995 (Annexure P-1), thereafter, he has been removed from the said post on 11-7-2001 in pursuance of the resolution dated 2-7-2001 passed by Gram Sabha, Karesara. Copy of order removing the petitioner from the post of Panchayat Karmi is Annexure P-2. Against the order dated 11-7-2001 the petitioner preferred an appeal (Annexure P-3) under Section 91 of the Madhya Pradesh Panchayat Raj Adhiniyam and the same was dismissed by order dated 28-11-2001 (Annexure P-7) by respondent No.4, against which the petitioner preferred a revision before respondent No.3, and the same was also dismissed vide order dated 20.1.2003 (Annexure P-9). The ground for challenging the impugned	

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

orders is that the petitioner has been removed from the post of Panchayat Karmi without following the due procedure envisaged under the law. Therefore, the above order be quashed.

Return has been filed on behalf of the State/respondents No.1 to 3 in which it has been mentioned that the petitioner has been removed from the post of Panchayat Karmi after following the procedure envisaged in the scheme framed by the State on 12th September, 1995, and vide Annexure P-16 an amendment was incorporated from 6-1-2001.

I have heard learned counsel for the parties.

Learned Senior Advocate for the petitioner argued that the services of Panchayat Karmi are governed by the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999. In this case, it is admitted position that no enquiry was conducted as per Rule 7 of the aforesaid Rules.

Having heard learned counsel for the parties and having gone through the record, it is admitted position that the services of Panchayat Karmi are governed by the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999. As has been held by this Court in the matter of Prakash Chandra Patel vs. State of Chhattisgarh and others (W.P.No.594/2003), order passed on 15th March, 2004, for removal of Panchayat Karmi which is a major penalty, enquiry envisaged under Rule 7 of the Rules, 1999 is mandatory, and if any Panchayat

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Soma	Karmi is removed without conducting enquiry as envisaged under Rule 7, the same is illegal being contrary to the Rules, 1999, and the same is liable to be quashed. It is admitted fact that in this case no enquiry has been conducted under the Rules, 1999. Therefore, on this score only, the impugned orders are liable to quashed. In the result, the petition is allowed and the impugned orders are quashed. The petitioner is entitled for all consequential benefits. Consequently, M.(W.)P.No.779/2003 and I.A.No.2305/2004 stand disposed of. Parties are entitled for certified copy of this order. Sd/- L.C.BHADOO Judge	

(पीछे देखिये)